

ORIGINAL

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

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Amendment of the Commission's Rules
Regarding Installment Payment Financing
for Personal Communications Services (PCS)
Licenses

WT Docket No. 97-82

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

OPPOSITION OF NEXTEL COMMUNICATIONS, INC.

Nextel Communications, Inc. ("Nextel"), by its attorneys, hereby submits its opposition to the Motion to Accept Late-Filed Supplemental Comments and the Supplemental Comments of the Personal Communications Industry Association ("PCIA") filed on July 21, 2000 in the above-captioned proceeding.¹

I. ARGUMENT

The Commission should deny the motion and dismiss the PCIA Comments, which have been filed well after the due date for comments and *ex parte* filings in this proceeding. Indeed, the Commission set the deadline for comments as June 30, 2000, and for *ex parte* presentations as July 12. On July 7, 2000, the Commission released a Public Notice extending the *ex parte* deadline from July 12 to July 17, after which *no* additional filings would be accepted.²

¹ Motion to Accept Late-Filed Supplemental Comments and Supplemental Comments of the Personal Communications Industry Association, WT Docket 97-82, (filed July 21, 2000) (collectively referred to as "PCIA Comments").

² See Deadline for Final *Ex Parte* and Other Presentations Responding to Issues Raised in Further Notice of Proposed Rulemaking in Wt Docket No. 97-82 Extended to July 17, 2000, *Public Notice*, DA 00-1531 (rel. July 7, 2000).

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There is no question that the present proceeding has received a great deal of attention from all industry groups. Numerous comments and reply comments have been filed and several parties have made *ex parte* presentations before the Commission and the Wireless Telecommunications Bureau. The Commission even extended the *ex parte* deadline to allow further participation and to provide parties with enough time to present their positions to the Commission. Thus, only a party that could demonstrate extraordinary circumstances should be permitted to submit a late-filed pleading.³

Blatantly ignoring the Commission's deadlines, PCIA now attempts to file a misleading set of comments a full four days after the Commission's *ex parte* cut-off. Without providing any justification for its belated submission, PCIA submits comments based on a *public* newspaper article concerning Nextel's second-quarter financial results.⁴ Such information has absolutely no relevance to the issues raised in this proceeding and PCIA has presented no colorable justification, let alone an emergency, that justifies the Commission granting its motion

³ Section 1.415 of the Commission's Rules provides that comments in rule making proceedings ordinarily may not be filed after the deadline specified in the Notice of Proposed Rule Making. Section 1.46 states that such deadlines may be expanded only upon a showing that an emergency situation prevented the filing of timely comments. *See Amor Family Broadcasting Group v. FCC*, 918 F. 2d 960 (D.C. Cir. 1990) (Court affirms rejection of comments in support of a Notice that were late-filed), and Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations (Hazlehurst and Bude, Mississippi), *Report and Order*, 10 FCC Rcd 2164, 2164 (1995) (Commission staff rejects late-filed supporting comments and associated expression of interest that were accompanied by a motion for leave to accept the late filed pleading). Further, the Commission's procedural rules are designed to provide adequate time and opportunity for interested parties to participate fully in the decision making process and to avoid prejudice to competing parties by providing predictable, uniformly applicable rules. *Id.* at 2164.

⁴ Sarah Schaffer, *Nextel's Loss Narrows, Subscriber List Grows*, WASH. POST, at E2, July 19, 2000.

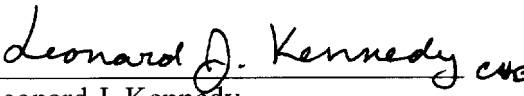
and accepting its late-filed comments. Thus, the Commission should dismiss PCIA's late-filed pleading.

II. CONCLUSION

Based on the foregoing, the Commission must deny PCIA's motion and dismiss its late filed comments which are procedurally deficient, offer no relevant information into the record and are inconsistent with the Commission's already-announced public policy goals for the reauction.

Respectfully submitted,

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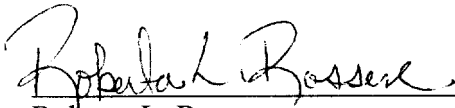
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